IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1559 OF 1999

1. The State of Maharashtra, through]
the Secretary, Finance Department,]
Mantralaya, Mumbai - 32.]
And
through the Chief Secretary,]
General Administrative Department,]
Mantralaya, Mumbai - 32.] .. Petitioner

Versus

1. Smt. Hemalata Babanrao Hulawale,]
Adult, Occ: Lower Grade Stenographer]
Office of the Director of]
Agriculture (AG 69), Pune-411 001.]

2. Smt. K.A. Morris,]
Adult, Occ: Lower Grade Stenographer]
Office of Director of Ground Water]
Survey Development Agency, Swargate]
Pune - 411 037.]

3. Smt. Vinaya Vishwas Godbole,]
Adult, Occ: Lower Grade Stenographer]
Office of the State Family Welfare]
Family Welfare Bhavan, Near R.T.O.,]
Pune - 411 001.]

4. Shri Anilkumar Shankarrao Gaikwad,]
Adult, Occ: Lower Grade Stenographer]
Office of Publicity & Information]
Office (Forest), New P.M.T.Building]
Pune - 411 001.]

5. Shri Adhok W. Karanjkar,]
Adult, Occ: Lower Grade Stenographer]
Office of the Dy.Director, Health]
Services, Pune Circle, Pune-411 027]

6. Shri Shrikant Laxman Deval,]
Adult, Occ: Lower Grade Stenographer]
Office of the District Industries]
Centre, Agriculture College Compound]
Shivajinagar, Pune - 411 005.]

7. Shri S.D. Nikam,]
Adult, Occ: Lower Grade Stenographer]
Office of the Director of Ground]

Water Survey Development Agency,]
Swargate, Pune - 411 037.]

8. Shri S.H. Qureshi,]
Adult, Occ: Lower Grade Stenographer]
Office of Central Design Organisation
Dindori Road, Nasik - 422 004.]

9. Shri D.J. Abdole,]
Adult, Occ: Lower Grade Stenographer]
Office of 2nd Joint Civil Judge,]
S.D. Nasik.]

10. Shri S.M. Rojekar,]
Adult, Occ: Lower Grade Stenographer]
Civil Court, S.D. Nasik.]

11. Shri B.V. Vaidya,]
Adult, Occ: Lower Grade Stenographer]
Collectorate, Nasik.]

12. Shri V.N. Bhagwat,]
Adult, Occ: Lower Grade Stenographer]
Judicial Magistrate 1st Class,]
3rd Court, Nasik.]

13. Shri H. Gosavi,]
Adult, Occ: Lower Grade Stenographer]
Office of the Conservator of Forest,]
Nasik Circle, Nasik.]

14. Shri Narendra Asaram Shinde,]
Adult, Occ: Lower Grade Stenographer]
Office of the Chief Judicial]
Magistrate, Nasik.] .. Respondents

Mr. C.R. Sonawane, AGP, for the petitioners.

Mrs. Poonam Mahajan for respondents No.1 to 7.

Mr. M.S. Karnik for respondents No.8 to 14.

CORAM: R.M. LODHA &
A.S. BAGGA, JJ.

DATED: 16TH JUNE, 2006

ORAL JUDGMENT : [Per R.M. Lodha, J.]

. The State of Maharashtra through the Secretary, Finance Department and Chief Secretary, General Administration Department, has filed this Writ Petition challenging the order of the Maharashtra Administrative Tribunal, Mumbai Bench passed on 4th September, 1998.

2. The Central Government on 31st July, 1990 issued Office Memorandum in respect of its decision that Assistants and Stenographers would be entitled to revised pay scale of 1640-60-2000-EB-75-2900 effective from 1st January, 1986. Based on the said Office Memorandum it appears that the various Lower Grade Stenographers made representation to the State Government that they be given the pay scale of Rs.1640-2900 as being given by the Central Government to its Stenographers. There being no positive response from the State Government giving pay scale of Rs.1640-2900 to Lower Grade Stenographers working in different departments of the State Government, two Original Applications came to be filed before the Maharashtra Administrative Tribunal by the group of

Lower Grade Stenographers. They prayed that the State Government be directed to pay to the cadre of Lower Grade Stenographers, the revised pay scale of Rs.1640-2900 which has been made admissible to Grade-C Stenographers working in the Central Government.

3. The State Government, though its Secretary, Finance Department issued a Government Resolution dated 22nd April, 1994 and Corrigendum dated 26th April, 1994 by which, *inter alia*, Lower Grade Stenographers in the State Government were accorded the pay scale of Rs.1640-2900 effective from 1st January, 1986. In other words, by Government Resolution dated 22nd April, 1994, and the Corrigendum dated 26th April, 1994 the State Government gave parity to Lower Grade Stenographers working with the State Government with Grade-C Stenographers working in the Central Government effective from 1st January, 1986. As regards arrears of pay arising out of pay fixation, the Government took the decision that for the period from 1st January, 1986 to 31st December, 1993 the arrears shall not be paid because of stringent economic condition due to Bombay blast and the earthquake in the State.

4. In the backdrop of the Government Resolution dated 22nd April, 1994 and the Corrigendum dated 26th

April, 1994 the Maharashtra Administrative Tribunal held that there was no justification in denying the payment of arrears of new pay scale to the Lower Grade Stenographer from 1st January, 1986 and declared that the original applicants were entitled to such arrears. The Maharashtra Administrative Tribunal also held that if the State Government is of the view, having regard to is current economic capacity, that they would not be able to pay the arrears forthwith they would be at liberty to credit the arrears in Provident Fund of the employees wholly or partly. Six months' time was given for compliance of the order. It is this order passed by the Tribunal on 4th September, 1998 that has been challenged by the State Government in extra ordinary jurisdiction before this Court.

5. We do not have to go into the question as to whether the Lower Grade Stenographers working in the State of Maharashtra would be *ipso facto* entitled to the pay scale of comparable Stenographers working in the Central Government. Ordinarily there may not be parity in employment of similarly situated employees belonging to different States or the State and the Centre and one State is not bound to follow rules, regulations and pay scale applicable to employees of the other State or of the Central Government. Insofar as present case is

concerned, indisputably the State Government issued its decision in the Government Resolution dated 22nd April, 1994 and the Corrigendum dated 26th April, 1994 giving parity to Lower Grade Stenographers with Grade-C Stenographers working in the Central Government from 1st January, 1986. That means the State Government accepted that the Lower Grade Stenographers working in various departments of the State Government have parity of employment with Grade-C Stenographers working in the Central Government from 1st January, 1986 and are entitled to the pay scale that has been given to the Grade-C Stenographers working in the Central Government from 1st January, 1986. The decision was taken by the State Government vide Resolution dated 22nd April, 1994 and, therefore, dealing with the aspect of arrears, the State Government decided that arrears of pay arising out of pay fixation for the period of 1st January, 1986 to 31st December, 1993 shall not be paid. The reason put forth for refusing to pay arrears was its stringent economic condition due to Bombay blast and the earthquake. If because of its stringent economic condition due to the Bombay blast and the earthquake in the State of Maharashtra, had the State Government denied arrears of revised pay from 1st January, 1986 to all its employees, perhaps its decision might have some justification. However, the fact of the matter is that

not only its various other employees, but even the Stenographers working in Mantralaya were paid revised pay scale from 1st January, 1986. The revised pay scale was denied to only small class of its employees viz. Lower Grade Stenographers working in various departments. This decision of the State Government apparently suffers from unpardonable discrimination and that is what the Maharashtra Administrative Tribunal corrected in passing the impugned order by holding that the Lower Grade Stenographers working in various departments of the State Government are entitled to arrears of revised pay scale from 1st January, 1986 and gave an option to the State Government either to pay the arrears by depositing the same in Provident Fund or pay the same in cash. We find no infirmity in the decision of the Tribunal.

6. By way of footnote we may notice that in compliance of the order passed by the Maharashtra Administrative Tribunal on 4th September, 1998 the respondents No.1 to 14 have been paid the arrears of revised pay admissible to Lower Grade Stenographers.

7. We find no force in the Writ Petition and it is dismissed with no order as to costs.

Sd/-
[R.M. LODHA, J.]

Sd/-
[A.S. BAGGA, J.]